

Exhibit 5 - Text of the Proposed Rule Change

Underlining indicates additions; [Brackets] indicate deletion



**Schedule of Fees**

*Last Updated [February 18, 2016] March 10, 2016*

## **Table of Contents**

### **Preface**

- I. Regular Order Fees and Rebates**
- II. Other Options Fees and Rebates**
  - A. Route-Out Fees**
  - B. Marketing Fees**
- III. Legal & Regulatory**
  - A. FINRA Web CRD Fees**

## PREFACE

All fee disputes concerning fees which are billed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation. All fee disputes must be submitted no later than ninety (90) calendar days after receipt of a billing invoice.

For purposes of assessing fees, the following references should serve as guidance. Fees and rebates are listed per contract per leg unless otherwise noted.

A **“Priority Customer”** is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in ISE Mercury Rule 100(a)(37A).

A **“Professional Customer”** is a person or entity that is not a broker/dealer and is not a Priority Customer.

A **“Non-ISE Mercury Market Maker”** is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

A **“Firm Proprietary”** order is an order submitted by a member for its own proprietary account.

A **“Broker-Dealer”** order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

A **“Retail”** order is a Priority Customer order that originates from a natural person, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

A **“Flash Order”** is an order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to ISE Mercury Rule 1901.

A **“Regular Order”** is an order that consists of only a single option series and is not submitted with a stock leg.

A **“Crossing Order”** is an order executed in the Exchange’s Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (“PIM”) or submitted as a Qualified Contingent Cross order. For purposes of this Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

**“Responses to Crossing Order”** is any contra-side interest (i.e., orders & quotes) submitted after the commencement of an auction in the Exchange’s Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or Price Improvement Mechanism.

**“Penny Symbols”** are options overlying all symbols listed on ISE Mercury that are in the Penny Pilot Program. The current list of ISE Mercury-listed Penny Pilot Program symbols is available at [http://www.ise.com/assets/files/products/productstraded/options\\_product\\_equityDownload.csv](http://www.ise.com/assets/files/products/productstraded/options_product_equityDownload.csv)

**“Non- Penny Symbols”** are options overlying all symbols excluding Penny Symbols.

# I. Regular Order Fees and Rebates

**Table 1**

Penny Symbols					
Market Participant	Fee/Rebate Tier 1	Fee/Rebate Tier 2	Fee/Rebate Tier 3	Fee/Rebate Tier 4	Fee/Rebate Tier 5
Market Maker <sup>(1)</sup> <sup>(2)</sup>	\$0.2[0]5	\$0.22	\$0.18	\$0.15	\$0.10
Non-ISE Mercury Market Maker (FarMM)	\$0.47	\$0.47	\$0.47	\$0.47	\$0.47
Firm Proprietary / Broker-Dealer	\$0.47	\$0.47	\$0.47	\$0.47	\$0.47
Professional Customer	\$0.47	\$0.47	\$0.47	\$0.47	\$0.47
Priority Customer	(\$0.[18]05)	(\$0.10)	(\$0.15)	(\$0.21)	(\$0.24)

  

Non-Penny Symbols					
Market Participant	Fee/Rebate Tier 1	Fee/Rebate Tier 2	Fee/Rebate Tier 3	Fee/Rebate Tier 4	Fee/Rebate Tier 5
Market Maker <sup>(1)</sup> <sup>(2)</sup>	\$0.2[0]5	\$0.22	\$0.18	\$0.15	\$0.10
Non-ISE Mercury Market Maker (FarMM)	\$0.90	\$0.90	\$0.90	\$0.90	\$0.90
Firm Proprietary / Broker-Dealer	\$0.90	\$0.90	\$0.90	\$0.90	\$0.90
Professional Customer	\$0.90	\$0.90	\$0.90	\$0.90	\$0.90
Priority Customer	(\$0.[18]05)	(\$0.10)	(\$0.15)	(\$0.21)	(\$0.24)

1. This fee also applies to ISE Mercury Market Maker orders sent to the Exchange by Electronic Access Members.
2. Market Makers will receive a \$0.05 per contract discount when trading against a non-Priority Customer.

**Table 2**

<b>[All Symbols] Penny Symbols</b>			
<b>Market Participant</b>	<b>Fee for Crossing Orders (Except PIM Orders of 500 or Fewer Contracts) <sup>(1)(2)</sup></b>	<b>[Fee/Rebate for PIM Orders of 500 or Fewer Contracts <sup>(1)</sup></b>	<b>Fee for Responses to Crossing Orders</b>
Market Maker <sup>(4)</sup>	\$0.20	\$0.05	\$0.20 <sup>(5)</sup>
Non-ISE Mercury Market Maker (FarMM)	\$0.20	\$0.05	\$0.50
Firm Proprietary / Broker-Dealer	\$0.20	\$0.05	\$0.50
Professional Customer	\$0.20	\$0.05	\$0.50
Priority Customer	\$0.00	(\$0.13) <sup>(3)</sup>	\$0.50

  

<b>Non-Penny Symbols</b>		
<b>Market Participant</b>	<b>Fee for Crossing Orders (Except PIM Orders of 500 or Fewer Contracts) <sup>(1)(2)</sup></b>	<b>Fee for Responses to Crossing Orders</b>
Market Maker <sup>(4)</sup>	\$0.20	\$0.25 <sup>(5)</sup>
Non-ISE Mercury Market Maker (FarMM)	\$0.20	\$0.95
Firm Proprietary / Broker-Dealer	\$0.20	\$0.95
Professional Customer	\$0.20	\$0.95
Priority Customer	\$0.00	\$0.95

**Table 3**

<b>All Symbols</b>					
	<u>Fee/Rebate for PIM Orders of 500 or Fewer Contracts</u>	<u>Fee/Rebate for PIM Orders of 500 or Fewer Contracts</u>	<u>Fee/Rebate for PIM Orders of 500 or Fewer Contracts</u>	<u>Fee/Rebate for PIM Orders of 500 or Fewer Contracts</u>	<u>Fee/Rebate for PIM Orders of 500 or Fewer Contracts</u>
<b>Market Participant</b>	<b>Tier 1<sup>(1)</sup></b>	<b>Tier 2<sup>(1)</sup></b>	<b>Tier 3<sup>(1)</sup></b>	<b>Tier 4<sup>(1)</sup></b>	<b>Tier 5<sup>(1)</sup></b>
<u>Market Maker<sup>(4)</sup></u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>
<u>Non-ISE Mercury Market Maker (FarMM)</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>
<u>Firm Proprietary / Broker-Dealer Professional</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>
<u>Customer</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>	<u>\$0.05</u>
<u>Priority Customer<sup>(3)</sup></u>	<u>(\$0.11)</u>	<u>(\$0.11)</u>	<u>(\$0.13)</u>	<u>(\$0.13)</u>	<u>(\$0.13)</u>

1. Fees apply to the originating and contra orders, except as noted in 3, below.
2. PIM orders of more than 500 contracts will pay the Fee for Crossing Orders.
3. Priority Customer orders on the contra-side of a PIM auction pay no fee and receive no rebate.
4. This fee also applies to ISE Mercury Market Maker orders sent to the Exchange by Electronic Access Members.
5. Market Makers that achieve Tier 2 or higher of the Qualifying Tier Thresholds in Table 4, below, will be charged the discounted fee applicable to the tier reached as described in Table 1, above.

**Qualifying Tier Thresholds****Table 4**

<b><u>Tier</u></b>	<b><u>Total Affiliated Priority Customer ADV</u></b>
<u>Tier 1</u>	<u>0-19,999</u>
<u>Tier 2</u>	<u>20,000-39,999</u>
<u>Tier 3</u>	<u>40,000-59,999</u>
<u>Tier 4</u>	<u>60,000-79,999</u>
<u>Tier 5</u>	<u>80,000+</u>

- Any day that the market is not open for the entire trading day or the Exchange instructs Members in writing to route their orders to other markets may be excluded from the ADV calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.
- The highest tier threshold attained applies retroactively in a given month to all eligible traded contracts and applies to all eligible market participants.
- The Total Affiliated Priority Customer ADV category includes all Priority Customer volume executed on the Exchange in all symbols and order types, including volume executed in the PIM, Facilitation, and QCC mechanisms.
- All eligible volume from affiliated Members will be aggregated in determining applicable tiers, provided there is at least 75% common ownership between the Members as reflected on the Member's Form BD, Schedule A.

## II. Other Options Fees and Rebates

### A. Route-Out Fees<sup>1</sup>

Market Participant	Penny Symbols	Non-Penny Symbols
All Market Participants	\$0.55	\$0.96

1. Fee applies to executions of orders that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan.

### B. Marketing Fee

Market Participant	Penny Symbols	Non-Penny Symbols
Market Maker	\$0.25	\$0.70

- Marketing fees apply to ISE Mercury Market Makers for each Regular Priority Customer contract executed except as noted below.
- Marketing fees are waived for Flash Order responses.
- The marketing fee will be rebated proportionately to the members that paid the fee such that on a monthly basis the marketing fee fund balance administered by a Primary Market Maker for a Group of options established under Rule 802(b) does not exceed \$100,000 and the marketing fee fund balance administered by a preferenced Competitive Market Maker for such a Group does not exceed \$100,000. A preferenced Competitive Market Maker that elects not to administer a fund will not be charged the marketing fee. The Exchange assesses an administrative fee of .45% on the total amount of the funds collected each month.



### III. Legal & Regulatory

#### A. FINRA Web CRD Fees

These fees are collected and retained by FINRA via the Web CRD registration system for the registration of associated persons of member organizations of the Exchange that are not FINRA members.

General Registration Fees:

\$100 – For each initial Form U4 filed for the registration of a representative or principal.

\$110 – For the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment or certification of one of more disclosure events or proceedings.

\$45 – FINRA Annual System Processing Fee Assessed only during Renewals.

Fingerprint Processing Fees:

\$27.75 – Initial Submission (Electronic)

\$42.75 – Initial Submission (Paper)

\$15.00 – Second Submission (Electronic)

\$30.00 – Second Submission (Paper)

\$27.75 – Third Submission (Electronic)

\$42.75 – Third Submission (Paper)

\$30.00 – FINRA Processing Fee for Fingerprint Results Submitted by Self-Regulatory Organizations other than FINRA.